

**MICHAEL CARROLL
and JENNA CARROLL,
Plaintiffs**

V.

**TROPICAL AQUACULTURE
PRODUCTS, INC. and
JOHN SCHRAMM, in his official
capacity as owner and President
of Tropical Aquaculture, Inc.,
Defendants**

[illegible]

File No. 1:08-CV-138

The Magistrate Judge's Report and Recommendation was filed January 6, 2009. (Paper 47.) After de novo review and over objection, the Report and Recommendation is AFFIRMED, APPROVED and ADOPTED. See 28 U.S.C. § 636(b)(1). Defendants' motion to dismiss Counts II, III and IV of the Amended Complaint (Paper 9) is GRANTED. Plaintiffs shall be allowed 30 days in which to amend the pleadings.

Further, plaintiffs' motion for leave to file second amended complaint (Paper 49) is GRANTED. Plaintiffs' second amended complaint shall be filed on or before March 16, 2009. Plaintiffs' request for relief from ordering a transcription of the record (Paper 56) is GRANTED.

This matter is returned to Magistrate Judge Niedermeier for further proceedings.

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 13th day of February,
2009.

/s/ J. Garvan Murtha
J. Garvan Murtha
United States District Judge